



MONTANA STATE PUBLIC DEFENDER

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PRE-APPROVAL AND CLAIMS PROCEDURE

1. GENERAL PROVISIONS APPLICABLE TO ALL CONTRACTORS AND VENDORS

Subject to Section 2 below, the following sections apply to all OPD Contractors and Vendors.

A. Contractor Compensation Schedule

1. Pursuant to Montana Code Annotated § 47-1-121(7), the Director shall set reasonable compensation for OPD contractors. The Current Contractor Compensation Schedule can be found on OPD's website here: [Contractor Compensation Schedule](#).
2. The rates set in the Contractor Compensation Schedule are applicable to all claims for a month of service, regardless of when a case was assigned.
3. The Contractor Compensation Schedule is subject to change by the Director. Notice of proposed changes to the Contractor Compensation Schedule shall be emailed to Counsel and posted to OPD's website. Contractors shall be given an opportunity to provide input on the proposed change through either a public hearing or submitting written comment, or both. Once all comments have been received, the Director shall determine whether to adjust the rates set in the Contractor Compensation Schedule. Notice of changes to the Contractor Compensation Schedule shall be emailed to Contractors and posted to OPD's website.

B. Online Claims Portal

Unless otherwise directed by OPD, **all** pre-approvals, supplemental approvals, and claims **must** be submitted through the Online Claims Portal. Paper claims will only be allowed in extraordinary circumstances. Please refer to the [Claims Portal Instructions](#) and [Claims Portal Training](#) for further information.

C. Pre-Approval Requirements

1. Per OPD Policy 125, all non-attorney client costs must be pre-approved through the Online Claims Portal. A provider may not begin any work on an OPD case until a pre-approval for services has been approved.
2. A provider shall not exceed the total amount of the approved Pre-Approval. If a provider determines additional time to complete the approved task or service is necessary, the provider shall immediately contact the referring attorney and explain the necessity for additional funds. If the referring attorney agrees that additional funds are needed, the referring attorney shall submit a supplemental request for additional funds. **A provider shall not perform work that exceeds the initial Pre-Approval unless and until the provider receives notice from OPD that additional funds were approved.**

3. Post-approval of client costs **shall not be granted** except in extraordinary circumstances.

D. Monthly Hourly Claims

1. Monthly hourly claims shall include all work performed within a given Region and Conflict Type. For example, work for all non-conflict, Region 4 cases would be submitted in one claim, while all work for conflict Region 4 cases would be submitted in a separate claim. Note that if one client has multiple cases in different Region/Conflict types, you will submit multiple claims for that client (one for each Region/Conflict type).
2. Hourly rates shall be separated into Provider Hours and Travel Hours and shall be broken down into one-tenths of an hour (0.1 hours).
3. Supporting documentation for each claim shall be attached to the claim and must contain the following information:
 - a. The **Total Claim Amount**, totaled across all cases, clients, costs, and expenses contained in the Claim, shall be conspicuously displayed in the claim's supporting documentation.
 - b. A detailed invoice for each case in the claim shall be included and must contain:
 - i. The OPD CaseID#
 - ii. Details of specific tasks performed
 - iii. The dates on which specific tasks were performed, with the total of the actual amount of time spent performing all tasks on a single day for that client rounded to the nearest one-tenth of an hour (0.1 hours).

The actual amount of time spent performing individual tasks **may not be rounded** but must be added together with the actual time spent for all tasks on a single day, then rounded to the nearest one-tenth of an hour. **Nor may the rounded daily time exceed** the actual time spent for all tasks in a day, except as necessary to round to the nearest one-tenth of an hour. *See Figure 1* on the next page for correct and incorrect examples of proper time rounding. Please note it is only necessary to include the total daily time, rounded to the nearest one-tenth of an hour, on your invoice. *See Figure 2* for an acceptable invoice for the tasks shown in Figure 1.
 - iv. Travel details, including the date of travel, departure location, arrival location, number of miles traveled, and purpose for travel. If claiming per diem for meals, you must include the time you departed your home base and the time you returned.

FIGURE 1 – DAILY TIME ROUNDING EXAMPLE

Date	Tasks	Actual Time Spent	Correctly Rounded Time for Invoice	Incorrectly Rounded Time for Invoice
January 2	• Review Email from Prosecutor	2 minutes	0.6 Hours	0.1 hours
	• Email to Prosecutor	3 minutes		0.1 hours
	• Review Email from Prosecutor	2 minutes		0.1 hours
	• Call to Client	21 minutes		0.4 hours
	• Email to Prosecutor	2 minutes		0.1 hours
	• Drafting Motion to Set COP	2 minutes		0.1 hours
	• Call to Client	2 minutes		0.1 hours
Daily Total		34 Minutes	0.6 Hours	1 Hour
January 3	• Call to Client	2 minutes	0.3 Hours	0.1 hours
	• File Review	3 minutes		0.1 hours
	• Call to Prosecutor	2 minutes		0.1 hours
	• File Review	2 minutes		0.1 hours
	• Call to Client	1 minute		0.1 hours
	• Email to Prosecutor	2 minutes		0.1 hours
	• Reviewing Order Setting COP	1 minute		0.1 hours
	• File review	1 minute		0.1 hours
	• Calendar COP Hearing	2 minutes		0.1 hours
	• Left Message for Client	2 minutes		0.1 hours
Daily Total		18 Minutes	0.3 Hours	1 Hour
January 4	• Mtg with Client	15 minutes	0.8 Hours	0.3
	• Prep for COP Hearing	15 minutes		0.3
	• COP Hearing	10 minutes		0.2
	• Mtg with Client	3 minutes		0.1
	• Draft and Send Letter to Client	5 minutes		0.1
	• Calendar Sentencing Hearing	1 minute		0.1
Daily Total		49 Minutes	0.8 Hours	1.1 Hours
Monthly Total		101 Minutes	1.7 Hours	3.1 Hours

FIGURE 2 – INVOICE EXAMPLE

Date	Tasks	Time
January 2	Review Email from Prosecutor; Email to Prosecutor; Review Email from Prosecutor; Call to Client; Email to Prosecutor; Drafting Motion to Set COP; Call to Client	0.6 Hours
January 3	Call to Client; File Review; Call to Prosecutor; File Review; Call to Client; Email to Prosecutor; Reviewing Order Setting COP; File review; Calendar COP Hearing; Left Message for Client	.03 Hours
January 4	Mtg with Client; Prep for COP Hearing; COP Hearing; Mtg with Client; Draft and Send Letter to Client; Calendar Sentencing Hearing	0.8 Hours
Monthly Total		1.7 Hours

- c. If seeking reimbursement for lodging, airfare, car rentals, parking, or other non-client expense, an **itemized** (room) receipt (not a credit card slip) from the hotel, airline, rental car agency, etc. must be included in the supporting documentation.
4. If working pursuant to a pre-approval, your claim **may not** exceed the amount of the pre-approval. A supplemental approval must be obtained in order to exceed the amount of the original pre-approval. Post-approval of client costs **shall not be approved** except in extraordinary circumstances.

E. Due Date for Claim Submissions

1. **General Claims Deadline:** All monthly claims are due by midnight of the last day of the month following the month of service. For example, a claim for services provided in March would be due by midnight on April 30. Absent extraordinary circumstances, late claims shall not be approved.
2. **Claims for the Month of June and Fiscal Year End:** Due to the unique nature of the State of Montana Fiscal Year End, all claims for the June Month of Service, as well as for any work completed during the previous fiscal year, are due by midnight, July 15. Payment for prior fiscal year claims submitted after this deadline may be significantly delayed and run the risk of going unpaid altogether.
3. **Request for Claim Extensions:** Please send any requests to extend a claim deadline or to file a claim once the deadline has passed, along with any supporting information or documentation of your extraordinary circumstances, to the appropriate OPD Liaison (typically this will be the assigning attorney).

F. 30-Day Payment Clock

All complete and timely submitted claims will be processed and paid within 30 days of receipt of the claim. The 30-day clock will stop whenever a claim is disputed, audited, or contains errors. The vendor will be notified through the Online Claims Portal and email of any issues with a claim. The 30-day clock will restart upon resolution of any dispute, audit, or issue with a claim.

G. Third-Party Costs

All vendors must directly bill OPD for all services and costs, and reimbursement for third-party costs **will not be granted** except in extraordinary circumstances.

2. SPECIFIC PROVIDER TYPE PROVISIONS

A. Contract Attorneys

1. **150-Hour Monthly Cap:** If Counsel is granted written permission to exceed the 150-hour Monthly Billable Hours cap by the appropriate OPD liaison, Counsel shall attach the written approval to each claim for the month of service the attorney exceeds the 150-hour cap. Failure to receive prior, written approval to exceed the 150-hour cap will result in non-payment for all hourly work exceeding the 150-hour cap.
2. **Substitution of Judge fees:** OPD will arrange for payment of Substitution of Judge fees filed on behalf of OPD Clients. To request payment of the substitution fee

Counsel shall, within ten (10) days of receiving an *Order of Substitution*, email the [Substitution of Judge Fee Payment Request Form](#), together with the *Order of Substitution*, to opdaccounting@mt.gov with “Sub Judge Fee Request” in the subject line. Failure to request payment of the substitution fee in a timely manner may result in your request for substitution being denied or Counsel paying the substitution fee, for which Counsel **will not be reimbursed**.

3. Case Closing Procedure: Counsel shall submit Case Update Status Requests through the Claims Portal, by uploading a closing form, as described in the [Claims Portal Instructions](#) (beginning on pg. 17).

4. Case Audit Process

- a. Each month Counsel shall be emailed a case list of their open and inactive cases and shall close all necessary cases in a timely manner.
- b. At the end of each Quarter, Counsel shall receive a *Quarterly Case Audit Email* with a list of their list of open cases, highlighting in red cases open longer than OPD Standards. Counsel shall close all necessary cases in a timely manner.
- c. For cases highlighted in red that are open and on-going, Counsel shall email a list of those OPD CaseID#s to Jennifer.Kueffler@mt.gov. No additional information or justifications are necessary – just list the OPD CaseID#s.
- d. Counsel’s response to the *Quarterly Case Audit Email* shall be due by the 15th of the month following the end of a quarter. For example, for the Quarter ending June 30, Counsel shall email the list of OPD CaseID#s to remain open by July 15. Counsel will receive advance email notice of each deadline.
- e. Any case listed in red on the *Quarterly Case Audit Email*, that is not indicated as open and on-going, will be closed by OPD staff, preventing Counsel from billing on those cases.

5. Covering Court for Other Attorneys: Attorneys in need of coverage may ask the appropriate OPD Liaison for permission to have another attorney cover a court hearing by emailing the Liaison an explanation of why coverage is necessary and who would be providing coverage. Any attorney providing coverage for an OPD case must have a current MOU with OPD.

B. Contract Investigators

Reimbursements for searches that require using a paid database (such as TLO) require a receipt showing the amount of the charges incurred during your search.

C. Contract Mental Health Professionals

Mental Health Providers may submit a separate claim for each client in which they have received a Pre-approval, or they may include multiple clients on one claim.

D. Contract Administrative Support Staff

If you are providing support for a large volume of cases, the requesting attorney shall obtain a monthly pre-approval which includes requesting attorney's current case list, the type of work that will be performed, and includes a specific number of hours you anticipate your work to take. Claims made for work performed pursuant to a Monthly Pre-Approval for Administrative Support Staff must be submitted via a paper claim.

E. Official Court Reporters must submit claims for pre-approved costs using these [transcript worksheets](#). If you are submitting a claim for *copies only* (with no original transcript), please use the **Non-Appellate Cases** worksheet, *regardless* of whether the case is an appellate case or not.